



Armando J. Olivera
*President and
Chief Executive Officer*

March 30, 2011

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

I write on behalf of Florida Power & Light Company ("FPL") to express concern regarding the Commission's impending order on pole attachments. Though there are many issues of concern, as set forth in prior submissions on behalf of electric utilities in this proceeding, this letter focuses on two specific issues: (1) treatment of incumbent local exchange carriers (ILECs) as attachers with rights under section 224 of the Telecommunications Act; and (2) pole top access for wireless antenna attachments.

Treatment of ILECs

Since its inception in the 1920's, FPL has maintained joint use agreements with ILECs in its service area. Other electric utilities in Florida have consistently had the same arrangement with ILECs in their service territories. This is because both the ILECs and the electric utilities have and continue to own poles, in service territories that overlap. Under these joint use agreements, the parties share the costs of pole ownership in their overlapping service areas for purposes of mutual cost-benefit. I understand that the FCC and the courts have consistently interpreted section 224 as not granting ILECs rights as attachers, in recognition that they are, in fact pole owners like the electric utilities. Any action by the Commission that grants ILECs rights as attachers under section 224 would upend these century-old infrastructure cost-sharing agreements and result in a massive shift of costs to be borne by Florida's electric customers, without any identifiable benefit to broadband deployment.

Pole Top Access

FPL allows, and currently hosts, wireless antenna attachments within the communications space on its poles. FPL prohibits third-party attachments on pole tops and elsewhere in the electric supply space. The fact that some utilities allow such attachments, or that the National Electrical Safety Code (NESC) contains specifications for such attachments, does not mean such attachments are appropriate or acceptable for all electric systems. The NESC is a *minimum* standard for third-party attachments in Florida. As part of the Florida Public Service Commission (FPSC) Storm Hardening Rules, Florida electric utilities are required to adopt

Chairman Genachowski

March 30, 2011

Page Two

attachment standards and procedures that meet *or* exceed the NESC so as to assure, as far as is reasonably practicable, that third-party facilities attached to electric transmission and distribution poles facilities do not impair electric safety, adequacy, or pole reliability, and do not exceed pole loading capacity. Any action by the Commission that grants third-party attachers the right to attach at a specific location on a pole would constitute unnecessary and unlawful interference with electric distribution system safety, reliability and engineering standards – matters squarely within FPSC jurisdiction.

If either or both of the above items are included in the draft pole attachments order, I urge the Commission to reconsider. FPL believes both items not only would run afoul of the language and intent of section 224, but also would be an unreasonable and inappropriate way for the Commission to proceed. Thank you for your attention to these matters.

Sincerely,



Armando J. Olivera
President & Chief Executive Officer

cc: Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Meredith Atwell Baker
Commissioner Mignon Clyburn

Florida Public Service Commission (via Hand-Delivery)
Chairman Art Graham
Commissioner Lisa P. Edgar
Commissioner Ronald A. Brisé
Commissioner Eduardo E. Balbis
Commissioner Julie Imanuel Brown

J.R. Kelly, Public Counsel for the State of Florida